

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**RICK C. BIANCHI**  
10940 Bristol Bay Drive, #414  
Bradenton, FL 34209

Registered Nurse License No. 611228

Respondent

Case No. 2006-121

OAH No. L-2008080670

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **July 11, 2009**.

IT IS SO ORDERED **June 11, 2009**.

*Susanne Phillips, MSN, RN, FNP-BC*

\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND BROWN JR., Attorney General  
of the State of California  
2 GREGORY SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON, State Bar No. 106092  
Deputy Attorney General  
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7 Attorneys for Complainant

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2006-121  
OAH No. L-2008080670

13 RICK C. BIANCHI  
10940 Bristol Bay Drive, # 414  
14 Bradenton, Florida 34209

15 Registered Nurse License No. 611228

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to  
19 the above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Susan Melton Wilson, Deputy Attorney General.

25 2. Respondent Rick C. Bianchi (Respondent) is represented in this  
26 proceeding by Green and Associates, Attorneys at Law, by Tracy Green, whose address is 865  
27 South Figueroa Street, 32<sup>nd</sup> Floor, Los Angeles, California, 90017 (office telephone: (213) 233-  
28 2260).

1                   3.     On or about December 27, 2002, the Board of Registered Nursing issued  
2 Registered Nurse License No. 611228 to Rick C. Bianchi (Respondent). The Registered Nurse  
3 License was in full force and effect at all times relevant to the charges brought herein. The  
4 license expired on February 29, 2004, has not been renewed, and was not in force and effect at  
5 the time the Accusation was filed.

6                                   JURISDICTION

7                   4.     Accusation No. 2006-121 was filed on August 24, 2006, before the Board  
8 of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending  
9 against Respondent. The Accusation and all other statutorily required documents were properly  
10 served to Respondent, who timely filed his Notice of Defense contesting the Accusation. A copy  
11 of Accusation No. 2006-121 is attached as **Exhibit A** hereto and incorporated by this reference.

12                                   ADVISEMENT AND WAIVERS

13                   5.     Respondent has carefully read, fully discussed with counsel, and  
14 understands the charges and allegations in Accusation No. 2006-121. Respondent has also  
15 carefully read, fully discussed with counsel, and understands the effects of this *Stipulated*  
16 *Settlement and Disciplinary Order*.

17                   6.     Respondent is fully aware of his legal rights in this matter, including the  
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
19 counsel at his own expense; the right to confront and cross-examine the witnesses against his; the  
20 right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas  
21 to compel the attendance of witnesses and the production of documents; the right to  
22 reconsideration and court review of an adverse decision; and all other rights accorded by the  
23 California Administrative Procedure Act and other applicable laws.

24                   7.     Respondent voluntarily, knowingly, and intelligently waives and gives up  
25 each and every right set forth above.

26                                   CULPABILITY

27                   8.     Parties agree that Respondent has complied in good faith with the 'Section  
28 820 Order' referred to in the Third Cause for Discipline of Accusation No. 2006-121, and that

this cause is now without merit. Respondent understands and agrees that the remaining charges and allegations in Accusation No. 2006-121, if proven at a hearing, constitute cause for imposing discipline upon his Registered Nurse License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie factual basis for the First and Second Causes for Discipline of Accusation No. 2006-12, and, without admitting the allegations, Respondent hereby gives up his right to contest those Causes for Discipline.

10. Respondent agrees that his Registered Nurse License is subject to discipline and agrees to be bound by the Board of Registered Nursing's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the *Stipulated Settlement and Disciplinary Order* shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this *Stipulated*

1 *Settlement and Disciplinary Order*, including facsimile signatures thereto, shall have the same  
2 force and effect as the originals.

3 14. In consideration of the foregoing admissions and stipulations, the parties  
4 agree that the Board may, without further notice or formal proceeding, issue and enter the  
5 following Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Registered Nurse License No. 611228 issued to  
8 Respondent Rick C. Bianchi is REVOKED. However, the revocation is STAYED and  
9 Respondent is placed on probation for three (3) years on the following terms and conditions.

10 **Severability Clause.** Each condition of probation contained herein is a separate  
11 and distinct condition. If any condition of this Order, or any application thereof, is declared  
12 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
13 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
14 and enforceable to the fullest extent permitted by law.

15 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
16 A full and detailed account of any and all violations of law shall be reported by Respondent to  
17 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
18 compliance with this condition, Respondent shall submit completed fingerprint forms and  
19 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
20 as part of the licensure application process.

21 **Criminal Court Orders:** If Respondent is under criminal court orders,  
22 including probation or parole, and the order is violated, this shall be deemed a violation of these  
23 probation conditions, and may result in the filing of an accusation and/or petition to revoke  
24 probation.

25 2. **Comply with the Board's Probation Program.** Respondent shall fully  
26 comply with the conditions of the Probation Program established by the Board and cooperate  
27 with representatives of the Board in its monitoring and investigation of the Respondent's  
28 compliance with the Board's Probation Program. Respondent shall inform the Board in writing

1 within no more than 15 days of any address change and shall at all times maintain an active,  
2 current license status with the Board, including during any period of suspension.

3           Upon successful completion of probation, Respondent's license shall be fully  
4 restored.

5           **3. Report in Person.** Respondent, during the period of probation, shall  
6 appear in person at interviews/meetings as directed by the Board or its designated  
7 representatives.

8           **4. Residency, Practice, or Licensure Outside of State.** Periods of  
9 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
10 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
11 of California. Respondent must provide written notice to the Board within 15 days of any change  
12 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
13 returning to practice in this state.

14           Respondent shall provide a list of all states and territories where she has ever been  
15 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
16 provide information regarding the status of each license and any changes in such license status  
17 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
18 new nursing license during the term of probation.

19           **5. Submit Written Reports.** Respondent, during the period of probation,  
20 shall submit or cause to be submitted such written reports/declarations and verification of actions  
21 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
22 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
23 Program. Respondent shall immediately execute all release of information forms as may be  
24 required by the Board or its representatives.

25           Respondent shall provide a copy of this Decision to the nursing regulatory agency  
26 in every state and territory in which she has a registered nurse license.

27           **6. Function as a Registered Nurse.** Respondent, during the period of  
28 probation, shall engage in the practice of registered nursing in California for a minimum of 24

1 hours per week for 6 consecutive months or as determined by the Board.

2 For purposes of compliance with the section, "engage in the practice of registered  
3 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
4 work in any non-direct patient care position that requires licensure as a registered nurse.

5 The Board may require that advanced practice nurses engage in advanced practice  
6 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
7 Board.

8 If Respondent has not complied with this condition during the probationary term,  
9 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
10 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
11 grant an extension of Respondent's probation period up to one year without further hearing in  
12 order to comply with this condition. During the one year extension, all original conditions of  
13 probation shall apply.

14 **7. Employment Approval and Reporting Requirements.** Respondent  
15 shall obtain prior approval from the Board before commencing or continuing any employment,  
16 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
17 performance evaluations and other employment related reports as a registered nurse upon request  
18 of the Board.

19 Respondent shall provide a copy of this Decision to her employer and immediate  
20 supervisors prior to commencement of any nursing or other health care related employment.

21 In addition to the above, Respondent shall notify the Board in writing within  
22 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
23 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
24 terminated or separated, regardless of cause, from any nursing, or other health care related  
25 employment with a full explanation of the circumstances surrounding the termination or  
26 separation.

27 **8. Supervision.** Respondent shall obtain prior approval from the Board  
28 regarding Respondent's level of supervision and/or collaboration before commencing or

1 continuing any employment as a registered nurse, or education and training that includes patient  
2 care.

3 Respondent shall practice only under the direct supervision of a registered nurse  
4 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
5 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
6 are approved.

7 Respondent's level of supervision and/or collaboration may include, but is not  
8 limited to the following:

9 (a) Maximum - The individual providing supervision and/or collaboration is  
10 present in the patient care area or in any other work setting at all times.

11 (b) Moderate - The individual providing supervision and/or collaboration is in  
12 the patient care unit or in any other work setting at least half the hours Respondent works.

13 (c) Minimum - The individual providing supervision and/or collaboration has  
14 person-to-person communication with Respondent at least twice during each shift worked.

15 (d) Home Health Care - If Respondent is approved to work in the home health  
16 care setting, the individual providing supervision and/or collaboration shall have person-to-  
17 person communication with Respondent as required by the Board each work day. Respondent  
18 shall maintain telephone or other telecommunication contact with the individual providing  
19 supervision and/or collaboration as required by the Board during each work day. The individual  
20 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
21 site visits to patients' homes visited by Respondent with or without Respondent present.

22 9. **Employment Limitations.** Respondent shall not work for a nurse's  
23 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
24 traveling nurse, or for an in-house nursing pool.

25 Respondent shall not work for a licensed home health agency as a visiting nurse  
26 unless the registered nursing supervision and other protections for home visits have been  
27 approved by the Board. Respondent shall not work in any other registered nursing occupation  
28 where home visits are required.



1 Respondent shall not work in any health care setting as a supervisor of registered  
2 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
3 nurses and/or unlicensed assistive personnel on a case-by-case basis.

4 Respondent shall not work as a faculty member in an approved school of nursing  
5 or as an instructor in a Board approved continuing education program.

6 Respondent shall work only on a regularly assigned, identified and predetermined  
7 worksite(s) and shall not work in a float capacity.

8 If Respondent is working or intends to work in excess of 40 hours per week, the  
9 Board may request documentation to determine whether there should be restrictions on the hours  
10 of work.

11 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
12 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
13 than six months prior to the end of her probationary term.

14 Respondent shall obtain prior approval from the Board before enrolling in the  
15 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
16 completion for the above required course(s). The Board shall return the original documents to  
17 Respondent after photocopying them for its records.

18 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
19 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
20 amount of Seven Thousand Dollars (\$ 7,000.00). Respondent shall be permitted to pay these  
21 costs in a payment plan approved by the Board, with payments to be completed no later than  
22 three months prior to the end of the probation term.

23 If Respondent has not complied with this condition during the probationary term,  
24 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
25 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
26 grant an extension of Respondent's probation period up to one year without further hearing in  
27 order to comply with this condition. During the one year extension, all original conditions of  
28 probation will apply.

1                   12.     **Violation of Probation.** If Respondent violates the conditions of his  
2 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
3 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
4 license.

5                   If during the period of probation, an accusation or petition to revoke probation has  
6 been filed against Respondent's license or the Attorney General's Office has been requested to  
7 prepare an accusation or petition to revoke probation against Respondent's license, the  
8 probationary period shall automatically be extended and shall not expire until the accusation or  
9 petition has been acted upon by the Board.

10                  13.     **License Surrender.** During Respondent's term of probation, if he ceases  
11 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
12 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
13 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
14 take any other action deemed appropriate and reasonable under the circumstances, without  
15 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
16 will no longer be subject to the conditions of probation.

17                  Surrender of Respondent's license shall be considered a disciplinary action and  
18 shall become a part of Respondent's license history with the Board. A registered nurse whose  
19 license has been surrendered may petition the Board for reinstatement no sooner than the  
20 following minimum periods from the effective date of the disciplinary decision:

21                  (1)     Two years for reinstatement of a license that was surrendered for any  
22 reason other than a mental or physical illness; or

23                  (2)     One year for a license surrendered for a mental or physical illness.

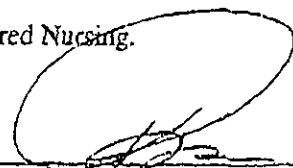
24                  14.     **Therapy or Counseling Program.** Respondent, at his expense, shall  
25 participate in an on-going counseling program until such time as the Board releases him from this  
26 requirement and only upon the recommendation of the counselor. Written progress reports from  
27 the counselor will be required at various intervals.

28     ///

ACCEPTANCE

I have carefully read the above *Stipulated Settlement and Disciplinary Order* and have fully discussed it with my attorney, Tracy Green. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this *Stipulated Settlement and Disciplinary Order* voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 1-28-2009

  
RICK C. BIANCHI  
Respondent

I have read and fully discussed with Respondent Rick C. Bianchi the terms and conditions and other matters contained in the above *Stipulated Settlement and Disciplinary Order*. I approve its form and content.

DATED: 1/29/09

  
TRACY GREEN  
Attorney for Respondent

ENDORSEMENT

The foregoing *Stipulated Settlement and Disciplinary Order* is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 2-4-09

  
SUSAN MELTON WILSON  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**  
**Accusation No. 2006-121**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 SHARON F. COHEN, R.N.  
Supervising Deputy Attorney General  
3 BARRY G. THORPE, State Bar No. 126422  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5845  
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2006-121

12 RICK C. BIANCHI  
13 13 Pine Grove Street  
Woodstock, New York 12498

**A C C U S A T I O N**

14 Registered Nurse License No. 611228

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
21 (Board), Department of Consumer Affairs.

22 2. On or about December 27, 2002, the Board issued Registered Nurse  
23 License No. 611228 to Rick C. Bianchi (Respondent). The Registered Nurse License was in full  
24 force and effect at all times relevant to the charges brought herein. The license expired on  
25 February 29, 2004, and has not been renewed.

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1 surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse  
2 or person in an equivalent domestic relationship.”

3 8. Section 820 of the Code states:

4 “Whenever it appears that any person holding a license, certificate or permit under  
5 this division or under any initiative act referred to in this division may be unable to practice his  
6 or her profession safely because the licentiate's ability to practice is impaired due to mental  
7 illness, or physical illness affecting competency, the licensing agency may order the licentiate to  
8 be examined by one or more physicians and surgeons or psychologists designated by the agency.  
9 The report of the examiners shall be made available to the licentiate and may be received as  
10 direct evidence in proceedings conducted pursuant to Section 822.”

11 9. Section 821 of the Code states:

12 “The licentiate’s failure to comply with an order issued under Section 820 shall  
13 constitute grounds for the suspension or revocation of the licentiate’s certificate or license.”

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board may  
15 request the administrative law judge to direct a licentiate found to have committed a violation or  
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
17 and enforcement of the case.

#### 18 **FIRST CAUSE FOR DISCIPLINE**

##### 19 **(Unprofessional Conduct - Sexual Misconduct or Relations with Patient)**

20 11. Respondent is subject to disciplinary action under Section 2761,  
21 subdivision (a) of the Code, in conjunction with Section 726 of the Code, on the grounds of  
22 unprofessional conduct for committing acts which directly relate the qualifications, functions,  
23 and duties of a registered nurse. The circumstances are as follows:

24 a. On or about December 28, 2002, while employed by Las Encinas Hospital  
25 as a traveling nurse, Respondent began to make sexual advances and used inappropriate sexual  
26 conduct in the treatment of patient Y.M., attempting to seduce her while she was held on a 72  
27 hour hold due to a drug overdose.

28 ///

1           b.       On or about January 2, 2003, in an effort to elicit patient Y.M.'s  
2 affections, Respondent offered to help prepare patient Y.M. for an appeal hearing to successfully  
3 reverse the order of an extended stay beyond the 72 hour hold brought by patient Y.M.'s treating  
4 physician who felt it would be in the best interest of patient Y.M. to remain an additional 14 days.  
5 Respondent accompanied patient Y.M. to the appeal hearing and represented to Respondent that  
6 his appearance at her hearing as her attending nurse would be beneficial to her for a successful  
7 result. After the hearing, Respondent was seen kissing patient Y.M. and making overt acts of  
8 sexual innuendo, and asking inappropriate personal questions.

9                               **SECOND CAUSE FOR DISCIPLINE**

10                           **(Unprofessional Conduct - Incompetence or Gross Negligence)**

11           12.       Respondent is subject to disciplinary action under Section 2761,  
12 subdivision (a)(1) of the Code on the grounds of unprofessional conduct for violating Section  
13 726 of the Code, in that Respondent committed acts of incompetence or gross negligence in  
14 carrying out usual certified or licensed nursing functions, as more fully set forth above in  
15 paragraph 11.

16                           **THIRD CAUSE FOR DISCIPLINE**

17                           **(Unprofessional Conduct - Noncompliance with Section 820 Order)**

18           13.       Respondent is subject to disciplinary action under Section 2761,  
19 subdivision (a) of the Code, in conjunction with Section 821 of the Code, in that Respondent  
20 failed to comply failure to comply with the Board's Order to submit to a psychiatric examination  
21 (Order) pursuant to Section 820 of the Code. The circumstances are as follows:

22           a.       On or about February 17, 2006, the Board issued an Order compelling  
23 Respondent to submit to a psychiatric examination pursuant to Section 820 of the Code. The  
24 basis for the Board's Order is set forth above in paragraph 11.

25           b.       The Order was properly served on Respondent's address of record with  
26 the Board on March 2, 2006, and required Respondent to submit to a psychiatric examination no  
27 later than thirty (30) days from the date of service.

28       ///



1 c. Respondent failed to submit to a psychiatric examination within thirty (30)  
2 days of the date of service of the Board's Order.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License No. 611228, issued to  
7 Rick C. Bianchi.

8 2. Ordering Rick C. Bianchi to pay the Board of Registered Nursing the  
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12  
13 DATED: August 24, 2006

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16 RUTH ANN TERRY, M.P.H., R.N.  
17 Executive Officer  
18 Board of Registered Nursing  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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